
SENATE BILL No. 98

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-13; IC 5-8.

Synopsis: Vacancies caused by death. Establishes a procedure for any person to give notice of the death of an elective or a judicial officer to begin the process of filling the vacancy in office. Changes the time limit for holding a meeting or caucus to fill a vacancy.

Effective: July 1, 2003.

Dillon

January 7, 2003, read first time and referred to Committee on Elections and Civic Affairs.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 98

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-13-4-3 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) **This section applies to a**
3 **vacancy that occurs** ~~other than by resignation,~~ in a state office other
4 than governor, lieutenant governor, or a judicial office.

5 **(b) If a state officer wants to resign from office, the state officer**
6 **must resign as provided in IC 5-8-3.5.**

7 **(c) A vacancy that occurs in a state office because of the death**
8 **of the state officer may be certified to the governor under IC 5-8-6.**

9 **(d) A vacancy that occurs in a state office other than by**
10 **resignation or death** shall be certified to the governor by the circuit
11 court clerk of the county in which the officer resided.

12 ~~(b) (e) The governor shall fill a vacancy in a state office other than~~
13 ~~governor, lieutenant governor, or a judicial office shall be filled by~~
14 ~~appointment. by The governor may not fill a vacancy as provided by~~
15 ~~law until the governor receives notice of the death under IC 5-8-6.~~

16 **(f) The person who is appointed by the governor** holds office for
17 the remainder of the unexpired term and until a successor is elected and



1 qualified.

2 SECTION 2. IC 3-13-5-1, AS AMENDED BY P.L.26-2000,
3 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2003]: Sec. 1. (a) A vacancy in a legislative office shall be
5 filled by a caucus comprised of the precinct committeemen from the
6 senate or house district where the vacancy exists who represent the
7 same political party that elected or selected the person who held the
8 vacated seat.

9 (b) Not later than thirty (30) days after the vacancy occurs (or as
10 provided in ~~subsection (e))~~, **subsections (c) and (d)**), the caucus shall
11 meet and select a person to fill the vacancy by a majority vote of those
12 casting a vote for a candidate, including vice committeemen eligible to
13 vote as a proxy under section 5 of this chapter.

14 (c) A state chairman may give notice of a caucus before the time
15 specified under subsection (b) if a vacancy will exist because the
16 official has:

- 17 (1) submitted a written resignation under IC 5-8-3.5 that has not
- 18 yet taken effect; or
- 19 (2) been elected to another office.

20 **(d) If a vacancy in a legislative office exists because of the death**
21 **of the legislator, the caucus shall meet and select a person to fill the**
22 **vacancy not later than thirty (30) days after the state chairman**
23 **receives a notice of the death of the elective officer from the**
24 **secretary of state under IC 5-8-6.**

25 (e) Notwithstanding IC 5-8-4, a person may not withdraw the
26 person's resignation after the resignation has been accepted by the
27 person authorized to accept the resignation less than seventy-two (72)
28 hours before the announced starting time of the caucus under this
29 chapter.

30 ~~(e)~~ **(f)** The person selected must reside in the district where the
31 vacancy occurred.

32 SECTION 3. IC 3-13-5-2 IS AMENDED TO READ AS FOLLOWS
33 [EFFECTIVE JULY 1, 2003]: Sec. 2. **(a)** The state chairman of the
34 political party that elected or selected the person who held the vacated
35 seat shall set the place, date, and time of a caucus meeting. The
36 chairman shall send a notice, by first class mail, of the purpose, place,
37 date, and time of the meeting to all precinct committeemen in the
38 caucus at least ten (10) days before the meeting.

39 **(b) If a vacancy in a legislative office exists because of the death**
40 **of the legislator, the state chairman may not send the notice**
41 **required by subsection (a) until the state chairman receives a**
42 **notice of the death from the secretary of state under IC 5-8-6.**

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SECTION 4. IC 3-13-6-1 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2003]: Sec. 1. (a) **As used in this section, "judge" refers to a judge of a circuit, superior, probate, or county court.**

(b) **If a judge wants to resign from office, the judge must resign as provided in IC 5-8-3.5.**

(c) **A vacancy that occurs because of the death of a judge may be certified to the governor under IC 5-8-6.**

(d) ~~A vacancy that occurs other than by resignation in the office or death of a judge of a circuit, superior, probate, or county court shall be~~ certified to the governor by the circuit court clerk of the county in which the judge resided.

~~(b)~~ (e) **A vacancy in the office of judge of a circuit court shall be filled by the governor as provided by Article 5, Section 18 of the Constitution of the State of Indiana. However, the governor may not fill a vacancy that occurs because of the death of a judge until the governor is notified of the death under IC 5-8-6.** The person who is appointed holds the office until:

(1) the end of the unexpired term; or

(2) a successor is elected at the next general election and qualified;

whichever occurs first. The person elected at the general election following an appointment to fill the vacancy, upon being qualified, holds office for the six (6) year term prescribed by Article 7, Section 7 of the Constitution of the State of Indiana and until a successor is elected and qualified.

(c) A vacancy in the office of judge of a superior, probate, or county court shall be filled by the governor subject to the following:

(1) IC 33-5-5.1-37.1.

(2) IC 33-5-5.1-41.1.

(3) IC 33-5-29.5-39.

(4) IC 33-5-40-44.

However, the governor may not fill a vacancy that occurs because of the death of a judge until the governor is notified of the death under IC 5-8-6. The person who is appointed holds office for the remainder of the unexpired term.

SECTION 5. IC 3-13-7-2 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2003]: Sec. 2. (a) **This section applies to a vacancy in a county elected office (other than county council) not covered by section 1 of this chapter.**

(b) **A vacancy shall be filled by the board of commissioners of the county at a regular or special meeting. The county auditor shall give**

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notice of the meeting. ~~which~~ **Except as provided in subsection (d), the meeting** shall be held ~~within~~ **not later than** thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each commissioner at least ten (10) days before the meeting.

~~(b)~~ **(c)** Selections made under this section (or under IC 3-2-10-3(a) before its repeal on March 4, 1986) are appointments pro tempore for the purposes of Article 2, Section 11 of the Constitution of the State of Indiana.

(d) If a vacancy occurs because of the death of an elected county officer, the board of commissioners shall meet and select an individual to fill the vacancy not later than thirty (30) days after the county auditor receives notice of the death under IC 5-8-6. The county auditor may not give the notice required under subsection (b) until the county auditor receives notice of the death under IC 5-8-6.

SECTION 6. IC 3-13-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a) This section applies to a vacancy in a county council not covered by section 1 of this chapter.**

(b) A vacancy shall be filled by a majority of the remaining members of the council at a regular or special meeting. The county auditor shall give notice of the meeting. ~~which~~ **Except as provided in subsection (c), the meeting** shall be held ~~within~~ **not later than** thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(c) If a vacancy occurs because of the death of a county council member, the county council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the county auditor receives a notice of the death under IC 5-8-6. The county auditor may not give the notice required under subsection (b) until the county auditor receives notice of the death under IC 5-8-6.

SECTION 7. IC 3-13-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) **As used in this section, "judge" refers to a judge of a city court.**

(b) If a judge wishes to resign from office, the judge must resign



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as provided in IC 5-8-3.5.

(c) A vacancy that occurs because of the death of a judge may be certified to the governor under IC 5-8-6.

(d) A vacancy that occurs, other than by resignation in the office or death of a judge of a city court shall be certified to the governor by the circuit court clerk of the county in which the judge resided.

~~(b)~~ (e) A vacancy in the office of judge of a city court shall be filled by the governor. **However, the governor may not fill a vacancy that occurs because of the death of a judge until the governor receives notice of the death under IC 5-8-6.**

SECTION 8. IC 3-13-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) **This section applies to a vacancy in the office of mayor of a first class city not covered by section 1 of this chapter.**

(b) **The vacancy shall be filled by the city-county council at a regular or special meeting. The city clerk shall give notice of the meeting. ~~which~~ Except as provided in subsection (d), the meeting shall be held ~~within~~ not later than thirty (30) days after the vacancy occurs. The notice must:**

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

~~(b)~~ (c) The city clerk shall preside at the meeting but may not vote unless there is a tie vote among the members of the council. The council must appoint one (1) of its own members to the office. Until the vacancy is filled, the president of the council shall serve as acting mayor.

(d) **If a vacancy exists because of the death of the mayor, the council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the city clerk receives a notice of the death under IC 5-8-6. The city clerk may not give notice required under subsection (b) until the city clerk receives notice of the death under IC 5-8-6.**

SECTION 9. IC 3-13-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) **This section applies to a vacancy in the city-county council of a first class city not covered by section 1 of this chapter.**

(b) **A vacancy shall be filled by a majority of the remaining members of the council at a regular or special meeting. The city clerk shall give notice of the meeting. ~~which~~ Except as provided in**

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subsection (c), the meeting shall be held within not later than thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(c) If a vacancy exists because of the death of a council member, the council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the city clerk receives a notice of the death under IC 5-8-6. The city clerk may not give the notice required under subsection (b) until the city clerk receives notice of the death under IC 5-8-6.

~~(b)~~ **(d)** The appointed member serves until a successor is elected and qualified at the next municipal or general election, whichever occurs first. The successor serves from noon January 1 following that election to noon January 1 following the next municipal election, as provided in IC 36-3-4-2. The persons appointed and elected must be resident voters in the district where the vacancy occurred, unless the vacancy occurred in an at large seat.

SECTION 10. IC 3-13-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) **This section applies to** a vacancy in the office of mayor of a second class city not covered by section 1 of this chapter.

(b) A vacancy shall be filled as follows:

- (1) If the city has a deputy mayor, the deputy mayor assumes the office for the remainder of the unexpired term.
- (2) If the city does not have a deputy mayor, the city controller assumes the office for the remainder of the unexpired term.
- (3) If the city does not have a deputy mayor and the office of city controller is vacant, the common council shall fill the vacancy at a regular or special meeting.

~~(b)~~ **(c)** The city clerk shall give notice of the meeting required under subsection ~~(a)(3)~~, **which (b)(3). Except as provided in subsection (d), the meeting shall be held within not later than thirty (30) days after the vacancy occurs. The notice must:**

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(d) If a vacancy exists because of the death of the mayor, the

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1 council shall meet and select an individual to fill the vacancy not
 2 later than thirty (30) days after the city clerk receives a notice of
 3 the death under IC 5-8-6. The city clerk may not give the notice
 4 required under subsection (c) until the city clerk receives notice of
 5 the death under IC 5-8-6.

6 ~~(c)~~ (e) Until the vacancy is filled, the council shall designate one (1)
 7 of its members to serve as acting mayor.

8 SECTION 11. IC 3-13-8-6 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) **This section**
 10 **applies to** a vacancy in the office of city clerk of a second class city not
 11 covered by section 1 of this chapter.

12 **(b) A vacancy** shall be filled by the mayor or acting mayor, subject
 13 to the approval of the common council. **However, if a vacancy exists**
 14 **because of the death of the city clerk, the mayor or acting mayor**
 15 **may not fill the vacancy until the mayor or acting mayor is notified**
 16 **of the death under IC 5-8-6.**

17 ~~(b)~~ (c) The common council shall vote on the question of approving
 18 the mayor or acting mayor's appointment at a regular or special
 19 meeting. The president of the common council shall give notice of the
 20 meeting, which shall be held ~~within~~ **not later than** thirty (30) days
 21 after the appointment is made. The notice must:

- 22 (1) be in writing;
- 23 (2) state the purpose of the meeting;
- 24 (3) state the date, time, and place of the meeting; and
- 25 (4) be sent by first class mail to each council member at least ten
- 26 (10) days before the meeting.

27 SECTION 12. IC 3-13-8-7 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) **This section**
 29 **applies to** a vacancy in the common council of a second class city not
 30 covered by section 1 of this chapter.

31 **(b) A vacancy** shall be filled by the remaining members of the
 32 council at a regular or special meeting. The city clerk shall give notice
 33 of the meeting. ~~which~~ **Except as provided in subsection (c), the**
 34 **meeting** shall be held ~~within~~ **not later than** thirty (30) days after the
 35 vacancy occurs. The notice must:

- 36 (1) be in writing;
- 37 (2) state the purpose of the meeting;
- 38 (3) state the date, time, and place of the meeting; and
- 39 (4) be sent by first class mail to each council member at least ten
- 40 (10) days before the meeting.

41 **(c) If a vacancy exists because of the death of a council member,**
 42 **the council shall meet and select an individual to fill the vacancy**

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not later than thirty (30) days after the city clerk receives a notice of the death under IC 5-8-6. The city clerk may not give the notice required under subsection (b) until the city clerk receives notice of the death under IC 5-8-6.

SECTION 13. IC 3-13-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) **This section applies to** a vacancy in the office of mayor of a third class city not covered by section 1 of this chapter.

(b) **A vacancy** shall be filled as follows:

(1) If the city has a deputy mayor, the deputy mayor assumes the office for the remainder of the unexpired term.

(2) If the city does not have a deputy mayor, the common council shall fill the vacancy at a regular or special meeting.

~~(b)~~ (c) The city clerk-treasurer shall give notice of the meeting required under subsection ~~(a)(2)~~, **which (b)(2). Except as provided in subsection (d), the meeting shall be held within not later than thirty (30) days after the vacancy occurs. The notice must:**

(1) be in writing;

(2) state the purpose of the meeting;

(3) state the date, time, and place of the meeting; and

(4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(d) If a vacancy exists because of the death of the mayor, the council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the city clerk-treasurer receives notice of the death under IC 5-8-6. The city clerk-treasurer may not give the notice required under subsection (c) until the city clerk-treasurer receives notice of the death under IC 5-8-6.

~~(c)~~ (e) Until the vacancy is filled, the council shall designate one (1) of its members to serve as acting mayor.

SECTION 14. IC 3-13-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) **This section applies to** a vacancy in the office of city clerk-treasurer of a third class city not covered by section 1 of this chapter.

(b) The vacancy shall be filled by the mayor or acting mayor, subject to the approval of the common council. **However, if a vacancy exists because of the death of the city clerk-treasurer, the mayor or acting mayor may not fill the vacancy until the mayor or acting mayor is notified of the death under IC 5-8-6.**

~~(b)~~ (c) The common council shall vote on the question of approving the mayor or acting mayor's appointment at a regular or special meeting. The mayor shall give notice of the meeting, which shall be



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held ~~within~~ **not later than** thirty (30) days after the appointment is made. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

SECTION 15. IC 3-13-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) **This section applies to** a vacancy in the common council of a third class city not covered by section 1 of this chapter.

(b) **A vacancy** shall be filled by the remaining members of the council at a regular or special meeting. The city executive may break any tie vote.

~~(b)~~ (c) The city clerk-treasurer shall give notice of the meeting. ~~which~~ **Except as provided in subsection (d), the meeting** shall be held ~~within~~ **not later than** thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(d) **If a vacancy exists because of the death of a council member, the council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the city clerk-treasurer receives notice of the death under IC 5-8-6. The city clerk-treasurer may not give the notice required under subsection (c) until the city clerk-treasurer receives notice of the death under IC 5-8-6.**

SECTION 16. IC 3-13-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) **This section applies to** a vacancy in the office of judge of a town court that is:

- (1) not covered by section 1 of this chapter; or
- (2) covered by section 1 of this chapter, but ~~exists~~ **existing** after the thirtieth day after the vacancy occurs.

(b) **A vacancy** shall be filled by the town council at a regular or special meeting.

~~(b)~~ (c) The town clerk-treasurer shall give notice of the meeting. ~~which~~ **Except as provided in subsection (e) or (f), the meeting** shall be held:

- (1) ~~within~~ **not later than** thirty (30) days after the vacancy occurs

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if the vacancy is not covered by section 1 of this chapter; or
 (2) ~~within not later than~~ sixty (60) days after the vacancy occurs
 if the vacancy **is covered by section 1 of this chapter and** exists
 for more than thirty (30) days.

~~(c)~~ (d) The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten
 (10) days before the meeting.

(e) **Notwithstanding subsection (c), if a vacancy:**

- (1) **is not covered by section 1 of this chapter; and**
- (2) **exists because of the death of a judge;**

**the council shall meet and select an individual to fill the vacancy
 not later than thirty (30) days after the town clerk-treasurer
 receives notice of the death under IC 5-8-6. The town
 clerk-treasurer may not give the notice required under subsection
 (c) until the town clerk-treasurer receives notice of the death under
 IC 5-8-6.**

(f) **Notwithstanding subsection (c), if a vacancy:**

- (1) **is covered by section 1 of this chapter;**
- (2) **exists because of the death of a judge; and**
- (3) **exists for more than thirty (30) days;**

**the council shall meet and select an individual to fill the vacancy
 not later than sixty (60) days after the town clerk-treasurer
 receives a notice of the death under IC 5-8-6. The town
 clerk-treasurer may not give the notice required under subsection
 (c) until the town clerk-treasurer receives notice of the death under
 IC 5-8-6.**

SECTION 17. IC 3-13-9-3 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) **This section
 applies to** a vacancy in the office of town clerk-treasurer:

- (1) not covered by section 1 of this chapter; or
- (2) covered by section 1 of this chapter, but existing after the
 thirtieth day after the vacancy occurs.

(b) **A vacancy** shall be filled by the town council at a regular or
 special meeting.

~~(b)~~ (c) The president of the town council shall give notice of the
 meeting. ~~which~~ **Except as provided in subsection (e) or (f), the
 meeting shall be held:**

- (1) ~~within not later than~~ thirty (30) days after the vacancy occurs
 if the vacancy is not covered by section 1 of this chapter; or

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(2) ~~within not later than~~ sixty (60) days after the vacancy occurs if the vacancy **is covered by section 1 of this chapter** and exists for more than thirty (30) days.

~~(c)~~ **(d)** The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(e) Notwithstanding subsection (c), if a vacancy:

(1) is not covered by section 1 of this chapter; and

(2) exists because of the death of the town clerk-treasurer;

the council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the president of the town council receives a notice of the death under IC 5-8-6. The president of the town council may not give the notice required under subsection (c) until the president of the town council receives notice of the death under IC 5-8-6.

(f) Notwithstanding subsection (c), if a vacancy:

(1) is covered by section 1 of this chapter;

(2) exists because of the death of the town clerk-treasurer; and

(3) exists for more than thirty (30) days;

the council shall meet and select an individual to fill the vacancy not later than sixty (60) days after the president of the town council receives notice of the death under IC 5-8-6. The president of the town council may not give the notice required under subsection (c) until the president of the town council receives notice of the death under IC 5-8-6.

SECTION 18. IC 3-13-9-4, AS AMENDED BY P.L.174-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) **This section applies to** a vacancy in the town council:

(1) not covered by section 1 of this chapter; or

(2) covered by section 1 of this chapter, but existing after the thirtieth day after the vacancy occurs.

(b) The vacancy shall be filled by the remaining members of the council at a regular or special meeting.

~~(b)~~ **(c)** The town clerk-treasurer shall give notice of the meeting. Except as provided in subsection ~~(d)~~ or (e), **(f), (g), or (h)**, the meeting shall be held:

(1) ~~within not later than~~ thirty (30) days after the vacancy occurs

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if the vacancy is not covered by section 1 of this chapter; or
 (2) ~~within not later than~~ sixty (60) days after the vacancy occurs
 if the vacancy is covered by section 1 of this chapter and exists for
 more than thirty (30) days.

~~(c)~~ (d) The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten
 (10) days before the meeting.

~~(d)~~ (e) Notwithstanding subsection ~~(b)~~; (c), if a vacancy:

- (1) is not covered by **subsection (f) or** section 1 of this chapter;
 and

- (2) exists because a circumstance has occurred under
~~IC 36-5-2-6.5(2) through IC 36-5-2-6.5(4)~~ **IC 36-5-2-6.5(3)**;

the town council shall meet and select an individual to fill the vacancy
 not later than thirty (30) days after the town council determines that a
 circumstance has occurred under ~~IC 36-5-2-6.5(2) through~~
~~IC 36-5-2-6.5(4)~~ **IC 36-5-2-6.5(3)**.

(f) Notwithstanding subsection (c), if a vacancy:

- (1) is not covered by subsection (e) or section 1 of this chapter;
 and

- (2) exists because a circumstance has occurred under
IC 36-5-2-6.5(2);

**the town council shall meet and select an individual to fill the
 vacancy not later than thirty (30) days after the town
 clerk-treasurer receives a notice of the death under IC 5-8-6. The
 town clerk-treasurer may not give the notice required by
 subsection (c) until the town clerk-treasurer receives notice of the
 death under IC 5-8-6.**

~~(e)~~ (g) Notwithstanding subsection ~~(b)~~; (c), if a vacancy:

- (1) is covered by section 1 of this chapter **and not covered by
 subsection (h)**;

- (2) exists because a circumstance has occurred under
~~IC 36-5-2-6.5(2) through IC 36-5-2-6.5(4)~~ **IC 36-5-2-6.5(3)**; and
- (3) exists for more than thirty (30) days;

the council shall meet and select an individual to fill the vacancy not
 later than sixty (60) days after the town council determines that a
 circumstance has occurred under ~~IC 36-5-2-6.5(2) through~~
~~IC 36-5-2-6.5(4)~~ **IC 36-5-2-6.5(3)**.

(h) Notwithstanding subsection (c), if a vacancy:

- (1) is covered by section 1 of this chapter and not covered by

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subsection (g);

(2) exists because a circumstance has occurred under IC 36-5-2-6.5(2); and

(3) exists for more than thirty (30) days;

the council shall meet and select an individual to fill the vacancy not later than sixty (60) days after the town clerk-treasurer receives a notice of the death under IC 5-8-6. The town clerk-treasurer may not give the notice required by subsection (c) until the town clerk-treasurer receives notice of the death under IC 5-8-6.

SECTION 19. IC 3-13-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) **This section applies to** a vacancy in the office of township trustee not covered by section 1 of this chapter.

(b) **The vacancy** shall be filled by the board of commissioners of the county at a regular or special meeting. The county auditor shall give notice of the meeting. ~~which~~ **Except as provided in subsection (c), the meeting** shall be held ~~within~~ **not later than** thirty (30) days after the vacancy occurs. The notice must:

(1) be in writing;

(2) state the purpose of the meeting;

(3) state the date, time, and place of the meeting; and

(4) be sent by first class mail to each commissioner at least ten (10) days before the meeting.

(c) **If the vacancy exists because of the death of the township trustee, the board of commissioners shall meet and select an individual to fill the vacancy not later than thirty (30) days after the county auditor receives a notice of the death under IC 5-8-6. The county auditor may not give the notice required under subsection (b) until the county auditor receives notice of the death under IC 5-8-6.**

SECTION 20. IC 3-13-10-3, AS AMENDED BY P.L.90-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) **This section applies to** a vacancy in the office of township assessor not covered by section 1 of this chapter.

(b) **A vacancy** shall be filled by the county assessor, subject to the approval of the department of local government finance. **Except as provided in subsection (c),** the county assessor shall make the appointment ~~within~~ **not later than** thirty (30) days after the vacancy occurs. If the vacancy occurred because the elected township assessor failed to qualify or was removed, the person who is appointed must be of the same political party as the elected township assessor.



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1 (c) If a vacancy exists because of the death of the township
 2 assessor, the county assessor shall make the appointment required
 3 under subsection (b) not later than thirty (30) days after the county
 4 assessor receives a notice of the death under IC 5-8-6. The county
 5 assessor may not fill the vacancy as required by subsection (b) until
 6 the county assessor receives notice of the death under IC 5-8-6.

7 SECTION 21. IC 3-13-10-4 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) This section
 9 applies to a vacancy on the township board of a township not covered
 10 by section 1 of this chapter.

11 (b) A vacancy shall be filled by the board of commissioners of the
 12 county at a regular or special meeting. The county auditor shall give
 13 notice of the meeting. ~~which~~ Except as provided in subsection (c), the
 14 meeting shall be held ~~within~~ not later than thirty (30) days after the
 15 vacancy occurs. The notice must:

- 16 (1) be in writing;
- 17 (2) state the purpose of the meeting;
- 18 (3) state the date, time, and place of the meeting; and
- 19 (4) be sent by first class mail to each commissioner at least ten
 20 (10) days before the meeting.

21 (c) If a vacancy exists because of the death of a township board
 22 member, the meeting required under subsection (b) shall be held
 23 not later than thirty (30) days after the county auditor receives
 24 notice of the death under IC 5-8-6. The county auditor may not
 25 give the notice required under subsection (b) until the county
 26 auditor receives notice of the death under IC 5-8-6.

27 SECTION 22. IC 3-13-10-5 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) This section
 29 applies to a vacancy in the office of judge of a small claims court or
 30 small claims court constable not covered by section 1 of this chapter.

31 (b) A vacancy shall be filled by the township board at a regular or
 32 special meeting. The chairman of the township board shall give notice
 33 of the meeting. ~~which~~ Except as provided in subsection (c), the
 34 meeting shall be held ~~within~~ not later than thirty (30) days after the
 35 vacancy occurs. The notice must:

- 36 (1) be in writing;
- 37 (2) state the purpose of the meeting;
- 38 (3) state the date, time, and place of the meeting; and
- 39 (4) be sent by first class mail to each board member at least ten
 40 (10) days before the meeting.

41 (c) If a vacancy exists because of the death of a judicial officer,
 42 the meeting required under subsection (b) shall be held not later

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1 **than thirty (30) days after the chairman of the township board**
 2 **receives notice of the death under IC 5-8-6. The chairman of the**
 3 **township board may not give the notice required under subsection**
 4 **(b) until the chairman of the township board receives notice of the**
 5 **death under IC 5-8-6.**

6 SECTION 23. IC 3-13-11-3, AS AMENDED BY P.L.174-2002,
 7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2003]: Sec. 3. (a) Except as provided in ~~subsection~~
 9 **subsections (b) and (c)** and section 3.5 of this chapter, not later than
 10 ten (10) days after a vacancy occurs in an office subject to this chapter,
 11 the county chairman:

12 (1) of the county in which the greatest percentage of the
 13 population of the election district of the office is located; and

14 (2) of the same political party that elected or selected the official
 15 who vacated the office;

16 shall give notice of a caucus to all eligible precinct committeemen.

17 (b) A county chairman may give notice of a caucus before the time
 18 specified under subsection (a) if a vacancy will exist because the
 19 official has:

20 (1) submitted a written resignation under IC 5-8-3.5; or

21 (2) been elected to another office.

22 (c) Notwithstanding IC 5-8-4, a person may not withdraw the
 23 person's resignation after the resignation has been accepted by the
 24 person authorized to accept the resignation less than seventy-two (72)
 25 hours before the announced starting time of a caucus under this section.

26 (d) Except as provided in **subsection (e) and** section 3.5 of this
 27 chapter, a caucus under this section shall be held after giving notice to
 28 caucus members under section 4 of this chapter and not later than thirty
 29 (30) days after the vacancy occurs.

30 **(e) If a vacancy exists in an office because a circumstance has**
 31 **occurred under IC 36-5-2-6.5(2), the caucus shall meet and select**
 32 **an individual to fill the vacancy not later than thirty (30) days after**
 33 **the county chairman receives notice of the death under IC 5-8-6.**
 34 **The county chairman shall give notice to caucus members under**
 35 **section 4 of this chapter. The county chairman may not give the**
 36 **notice required under section 4 of this chapter until the county**
 37 **chairman receives notice of the death under IC 5-8-6.**

38 SECTION 24. IC 3-13-11-3.5, AS ADDED BY P.L.174-2002,
 39 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2003]: Sec. 3.5. (a) If a vacancy exists on a town council
 41 because a circumstance has occurred under ~~IC 36-5-2-6.5(2) through~~
 42 ~~IC 36-5-2-6.5(4);~~ **IC 36-5-2-6.5(3)**, the caucus shall meet and select an

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individual to fill the vacancy not later than thirty (30) days after the county chairman receives a notice of the vacancy under IC 5-8-5. ~~If the vacancy is due to the death of a town council member, and the county chairman is aware of the member's death before receiving a notice of the death, the caucus may meet before the county chairman receives the notice of the death.~~

(b) The county chairman shall:

(1) give notice of the caucus meeting to caucus members under section 4 of this chapter; and

(2) keep the notice of the vacancy with the records of the caucus.

SECTION 25. IC 5-8-5-1, AS ADDED BY P.L.174-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. This chapter applies when a vacancy must be filled under:

(1) IC 3-13-9; or

(2) IC 3-13-11;

due to a reason set forth in ~~IC 36-5-2-6.5(2) through IC 36-5-2-6.5(4).~~ **IC 36-5-2-6.5(3).**

SECTION 26. IC 5-8-5-3, AS ADDED BY P.L.174-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The town council may hold a public meeting to determine whether a circumstance has occurred under ~~IC 36-5-2-6.5(2) through IC 36-5-2-6.5(4)~~ **IC 36-5-2-6.5(3)** that results in a vacancy on the town council. The town council may set a meeting for making the determination on its own motion, or a person may petition the town council to set a meeting to make the determination. The town council may grant or deny a petition for a meeting.

(b) If a person files a petition with the council, the petition must state the basis for the person's claim that a circumstance has occurred under ~~IC 36-5-2-6.5(2) through IC 36-5-2-6.5(4).~~ **IC 36-5-2-6.5(3).**

SECTION 27. IC 5-8-5-4, AS ADDED BY P.L.174-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) If the town council is reasonably satisfied that any circumstance has occurred under ~~IC 36-5-2-6.5(2) through IC 36-5-2-6.5(4);~~ **IC 36-5-2-6.5(3)**, the council may, by an affirmative vote of a majority of the members appointed to the body, vote to declare a vacancy in the town council membership. The member who is alleged to have vacated the member's seat may participate in the meeting as a member, but may not vote on the issue.

(b) If the member who is the subject of the petition or motion does not attend the meeting at which the town council makes the determination that a vacancy exists, the town council shall mail notice



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1 of its determination to the member.

2 (c) If the town council determines that a vacancy exists, the town
3 clerk-treasurer shall give the circuit court clerk notice of the
4 determination not later than five (5) days after the date of the town
5 council's determination. The circuit court clerk shall give notice to the
6 county chairman if a caucus is required under IC 3-13-11 to fill the
7 vacancy.

8 SECTION 28. IC 5-8-6 IS ADDED TO THE INDIANA CODE AS
9 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2003]:

11 **Chapter 6. Notice of Death of an Officeholder**

12 **Sec. 1. This chapter applies when a vacancy must be filled**
13 **under:**

- 14 (1) IC 3-13-4;
- 15 (2) IC 3-13-5;
- 16 (3) IC 3-13-6;
- 17 (4) IC 3-13-7;
- 18 (5) IC 3-13-8;
- 19 (6) IC 3-13-9;
- 20 (7) IC 3-13-10; or
- 21 (8) IC 3-13-11;

22 **due to the death of an elective or a judicial officer.**

23 **Sec. 2. As used in this chapter, "officeholder" refers to an**
24 **elective or a judicial officer.**

25 **Sec. 3. (a) A person who knows of the death of an officeholder**
26 **may certify the death to the following:**

27 (1) The governor, in the case of the death of any of the
28 following:

29 (A) An individual who holds a state office (as defined in
30 IC 3-5-2-48).

31 (B) An individual who is a judge of a circuit, superior,
32 probate, county, or city court.

33 (2) The secretary of state, in the case of the death of an
34 individual who holds a legislative office.

35 (3) The circuit court clerk of the county in which the
36 officeholder resided, in the case of the death of an officeholder
37 of a county, city, town, or township not covered under
38 subdivision (1).

39 **(b) A person who certifies the death of an officeholder shall:**

40 (1) state the information the person has to believe the
41 officeholder has died; and

42 (2) certify, under the penalties for perjury, that to the best of

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the person's knowledge and belief, the information stated is true.

Sec. 4. When the governor:

(1) obtains information concerning the death of an individual who:

(A) holds a state office (as defined in IC 3-5-2-48); or

(B) is a judge of a circuit, superior, probate, county, or city court; and

(2) is reasonably satisfied that the information described in subdivision (1) is true;

the governor shall fill the vacancy as provided by law.

Sec. 5. (a) When the secretary of state:

(1) obtains information concerning the death of an individual who holds a legislative office; and

(2) is reasonably satisfied that the information described in subdivision (1) is true;

the secretary of state shall give notice of the death to the state chairman of the political party that elected or selected the deceased individual.

(b) The secretary of state shall give the notice required by subsection (a) not later than seventy-two (72) hours after the requirements of subsection (a)(1) and (a)(2) are satisfied.

Sec. 6. (a) When a circuit court clerk:

(1) obtains information concerning the death of an officeholder of a county, city, town, or township not subject to section 4 of this chapter; and

(2) is reasonably satisfied that the information described in subdivision (1) is true;

the circuit court clerk shall give notice of the death to the person described in subsection (b).

(b) The circuit court clerk shall give the notice required by subsection (a) to:

(1) the person who must give notice of any meeting or caucus required to fill the vacancy caused by the death; or

(2) if a meeting or caucus is not required to fill the vacancy, the person who has the power to fill the vacancy.

(c) The circuit court clerk shall give the notice required by subsection (a) not later than seventy-two (72) hours after the requirements of subsection (a)(1) and (a)(2) are satisfied.

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